

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES KESTER,

Plaintiff,

v.

KOKOR, et al.,

Defendants.

No. 2:20-cv-1516 JAM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel. ECF No. 27. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

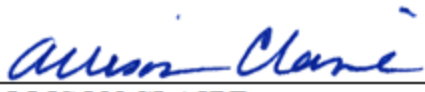
“When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.’” Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish

1 exceptional circumstances that would warrant a request for voluntary assistance of counsel.

2 Plaintiff requests counsel on the grounds that the issues are complex and he is unable to  
3 afford an attorney. ECF No. 27. At this stage, the court does not find that the issues are overly  
4 complex, and plaintiff has thus far demonstrated that he is capable of articulating his claims  
5 without assistance. Plaintiff has therefore failed to show the existence of extraordinary  
6 circumstances warranting the appointment of counsel.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
8 counsel, ECF No. 27, is DENIED.

9 DATED: December 20, 2021

10   
11 ALLISON CLAIRE  
12 UNITED STATES MAGISTRATE JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28